MONTANA LEGISLATIVE HISTORY

Chapter 382 1985

Bill H 594 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	2/14	✓ C	Hearing Date(s)	3/21	✓ C
	2/15	✓ C		3/23	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

HOUSE BILL NO. 594

INTRODUCED BY Cobb

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING NOTICE OF ENTRY ONTO LAND BY APPROPRIATE STATE AND LOCAL PERSONNEL FOR CERTAIN FLOODPLAIN AND FLOODWAY MANAGEMENT PURPOSES; REQUIRING RELEASE UPON REQUEST OF NAMES AND ADDRESSES OF ALL PERSONS OR ANY POLITICAL SUBDIVISION REQUESTING INVESTIGATION OF A NATURAL OR ARTIFICIAL OBSTRUCTION OR NONCONFORMING USE; AMENDING SECTION 76-5-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-5-105, MCA, is amended to read:

"76-5-105. Authority to enter and investigate lands or waters. (1) The department or the responsible political subdivision may make reasonable entry upon any lands and waters in the state for the purpose of making an investigation, survey, removal, or repair contemplated by parts 1 through 4 of this chapter. Unless written consent is obtained, however, the department shall provide written notice of its entry by personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered. If none of these persons can be found, the department shall affix a copy of the notice to one or more conspicuous places on the property.

(2) An investigation of a natural or artificial obstruction or nonconforming use shall be made by the department either on its own initiative, on the written request of three titleholders of land abutting the watercourse or drainway involved, or on the written request of a political subdivision. Upon the request of an owner, owner's agent, lessee, or lessee's agent whose lands will be entered to undertake the investigation, the department shall release the names and addresses of the persons or political subdivision requesting the investigation."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the board of natural resources and conservation to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

INTRODUCED BILL
HB 594

HOUSE BILL NO. 594

INTRODUCED BY COBB

IN THE HOUSE

January 31, 1985	Introduced and referred to Committee on Judiciary.
February 15, 1985	Committee recommend bill do pass as amended. Report adopted.
February 16, 1985	Bill printed and placed on members' desks.
February 18, 1985	Second reading, do pass.
February 19, 1985	Considered correctly engrossed.
February 20, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

February 22, 1985	Introduced and referred to Committee on Judiciary.
March 23, 1985	Committee recommend bill be concurred in. Report adopted.
March 27, 1985	Second reading, concurred in.
March 29, 1985	Third reading, concurred in. Ayes, 49; Noes, 0.
	Returned to House.

IN THE HOUSE

March 29, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1/31 INTRODUCED
1/31 REFERRED TO BUSINESS & LABOR
2/14 HEARING
DIED IN COMMITTEE

HB 593 INTRODUCED BY MENAHAN
PROMPT REFRIGERATION OR EMBALMING OF HUMAN REMAINS BY REQUEST OF BOARD OF MORTICIANS

1/31 INTRODUCED
1/31 REFERRED TO BUSINESS & LABOR
2/12 HEARING
2/14 ADVERSE COMMITTEE REPORT
2/15 BILL KILLED 75 21

HB 594 INTRODUCED BY COBB
FLOODPLAIN MANAGEMENT - NOTICE OF ENTRY AND RELEASE OF NAMES REQUIRED

1/31 INTRODUCED
1/31 REFERRED TO JUDICIARY
2/14 HEARING
2/15 COMMITTEE REPORT-BILL PASS AS AMENDED
2/18 2ND READING PASS 95 2
2/20 3RD READING PASS 100 0

TRANSMITTED TO SENATE
2/22 REFERRED TO JUDICIARY
3/21 HEARING
3/23 COMMITTEE REPORT-BILL CONCURRED
3/27 2ND READING CONCURRED 49 0
3/29 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
4/04 SIGNED BY SPEAKER
4/04 SIGNED BY PRESIDENT

4/04 TRANSMITTED TO GOVERNOR
4/08 SIGNED BY GOVERNOR
CHAPTER NUMBER 382 EFFECTIVE DATE: 10/01/85

HB 595 INTRODUCED BY BRADLEY
SOCIAL WORKERS AS PROVIDERS OF MEDICAL ASSISTANCE UNDER MEDICAID

1/31 INTRODUCED
1/31 REFERRED TO HUMAN SERVICES & AGING
2/13 HEARING
2/14 COMMITTEE REPORT-BILL DO PASS
2/16 2ND READING PASS 76 16
2/18 3RD READING PASS 85 14

TRANSMITTED TO SENATE
2/19 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
3/06 HEARING
3/07 COMMITTEE REPORT-BILL CONCURRED
3/08 2ND READING CONCURRED 49 0
3/11 3RD READING CONCURRED 49 1

RETURNED TO HOUSE

3/14 SIGNED BY SPEAKER
3/14 SIGNED BY PRESIDENT

3/14 TRANSMITTED TO GOVERNOR
3/15 SIGNED BY GOVERNOR
CHAPTER NUMBER 77 EFFECTIVE DATE: 10/01/85

HB 596 INTRODUCED BY DONALDSON
EXEMPT FARMERS' MARKET ASSOC. FROM CORPORATE LICENSE TAX PROVISIONS

1/31 INTRODUCED
1/31 REFERRED TO TAXATION
2/01 FISCAL NOTE REQUESTED
2/06 FISCAL NOTE RECEIVED
2/08 HEARING
2/11 COMMITTEE REPORT-BILL DO PASS
2/13 2ND READING PASS 96 0
2/14 3RD READING PASS 96 0

TRANSMITTED TO SENATE
2/15 REFERRED TO TAXATION
3/21 HEARING
3/21 COMM REPORT-BILL CONCURRED AS AMENDED
3/23 2ND READING CONCURRED 48 1
3/26 3RD READING CONCURRED 49 1

RETURNED TO HOUSE WITH AMENDMENTS
4/08 2ND READING AMENDMENTS CONCURRED 94 0
4/08 ON MOTION RULES SUSPENDED
PLACED ON 3RD READING THIS DAY
4/08 3RD READING AMENDMENTS CONCURRED 98 0
4/16 SIGNED BY SPEAKER
4/16 SIGNED BY PRESIDENT

4/18 TRANSMITTED TO GOVERNOR
4/23 SIGNED BY GOVERNOR
CHAPTER NUMBER 604 EFFECTIVE DATE: 4/23/85

HB 597 INTRODUCED BY ELLERD
REVISE LAW CONCERNING BUYERS OF GOODS - NO LIABILITY OF COMMISSION MERCHANT

1/31 INTRODUCED
1/31 REFERRED TO BUSINESS & LABOR
2/21 HEARING
2/22 COMMITTEE REPORT-NO RECOMMENDATION
2/23 2ND READING PASS 65 27
2/26 3RD READING DO NOT PASS 30 69
2/26 BILL KILLED

HB 598 INTRODUCED BY ASAY
GIVES PETROLEUM WHOLESALE DISTRIBUTORS SEMI-ANNUAL OPTION ON PRODUCT MEASURE

1/31 INTRODUCED
1/31 REFERRED TO BUSINESS & LABOR
2/14 HEARING
2/15 COMMITTEE REPORT-BILL PASS AS AMENDED
2/16 2ND READING PASS 55 0

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 586	1/31/85	2/13/85	2/13/85			2/13/85			
HB 587	1/31/85	2/13/85	2/13/85	2/13/85					
HB 588	1/31/85	2/13/85	2/13/85	2/13/85					
HB 600	1/31/85	2/8/85 2/11/35	2/11/35	2/11/35					
HB 594	1/31/85	2/14/85 2/15/85	2/15/85			2/15/85			
HB 609	2/1/85	2/6/85 2/7/85	2/7/85	2/7/85					
HB 619	2/1/85	2/7/85 2/14/85	2/14/85		2/14/85				
HB 620	2/1/85	2/11/85 2/13/85	2/13/85	2/13/85					
HB 622	2/1/85	2/8/85 2/16/85	2/16/85	2/16/85					
HB 627	2/1/85	2/13/85	2/13/85			2/13/85			
HB 643	2/2/85	2/14/85 2/15/85	2/15/85	2/15/85					
HB 644	2/2/85	2/11/85	2/11/85			2/11/85			
HB 656	2/4/85	2/7/85 2/14/85	2/14/85			2/14/85			
HB 664	2/4/85	2/8/85 2/7/85	2/8/85		2/8/85				
HB 665	2/4/85	2/22/85 2/23/85	2/23/85			2/23/85			
HB 667	2/4/85	2/8/85	2/8/85	2/8/85					

Use a separate sheet for Senate, House Bills, and Resolutions

CONSIDERATION OF HOUSE BILL NO. 643: Rep. Bob Thoft, District #63, testified in support of HB 643. This is an act to provide when a local government may and may not prohibit, register, tax, license or regualte the purchase, sale or other transfer, ownership, possession, discharge, transportation or unconcealed carrying of firearms. (He submitted a copy of Louis J. Bruen, III, testimony which was marked as Exhibit P-1.)

Lee Spurgin from Billings, appeared and offered testimony in support of HB 643.

Glenn Sanders, representing the Montana Pistol and Rifle Association, testified as a proponent to this bill. It provides that cities and towns may impose an ordinance to prevent carrying firearms in a city or town. It specifically would prevent removing firearms from the general public thereby removing the citizen's constitutional rights to own and possess firearms.

Harold M. Price, representing the Montana Wildlife Federation, testified in support of HB 643. A copy of his written testimony was marked Exhibit P and attached hereto.

James McConnell, chairman of the Montana Rifle Association, said that this bill is important to the gun owners of this state. He submitted a copy of his written testimony which was marked Exhibit Q.

Calvin L. Burr, Jr. appearing on behalf of himself and the Havre Rifle Club and the National Rifle Association, wished to go on record as supporting the bill.

Lenora Houldson from Missoula, testified in support of this bill. She said she is a pistol competitor. She stated that she is concerned about legislation coming at the local level that would make criminals out of law abiding citizens by taking away the rights that are guaranteed in our national constitution and that are likewise guaranteed in our state constitution.

Don Valem from Ovando, spoke as a proponent to the bill. Robert VanDerVere also spoke as a proponent . Ralph Knauss, from Clancy, also wished to go on record as supporting this legislation.

There being no further proponents or opponents, Rep. Thoft closed. He stated that he hopes the committee will not amend the bill in any way, and further urged the committee to pass the bill.

CONSIDERATION OF HOUSE BILL NO. 594: Rep. John Cobb, District #42, sponsor of HB 594, testified in support of it. This bill is an act requiring notice of entry onto land by appropriate state and local personnel for certain floodplain and floodway management purposes.

Lorna Frank, representing the Montana Farm Bureau Federation, testified in support of HB 594. A copy of her written statement was marked Exhibit R and is attached.

There being no further proponents or opponents present to testify, Rep. Cobb closed. The committee had no questions at this time, and hearing closed on HB 594.

CONSIDERATION OF HOUSE BILL NO. 17: Rep. Bob Marks, District #75, sponsor of HB 17, testified in support of it. He said this bill deals with criminal trespass. Passage of this bill would result as making any trespass on land a criminal trespass, and it strikes the necessity of prior notice that entry is not allowed. Rep. Marks informed the committee that this bill came out of the same subcommittee which dealt with the stream access issue. The subcommittee felt it was important to separate the two issues, the trespass issue is complicated enough.

PROPONENTS: Lorraine Gillies, representing the Montana Farm Bureau Federation, testified as a proponent to HB 17. A copy of her testimony was marked Exhibit S and attached.

Jo Brunner, representing the Montana Grange Association and the Montana Cattlemen's Association, testified in support of the bill.

Norm Starr, rancher from Melville, wished to go on record as supporting HB 17.

Esther Rudd, representing the Montana Cattlemen's Association, appeared and offered testimony in support of this legislation. She told the committee that the present trespass law in Montana leaves the property owner, rather than the trespasser, in a position of disadvantage. A copy of her written testimony was marked Exhibit S and attached hereto.

Nancy McIlhattan, representing the Park County Legislative Association, stated the PCLA likes the stringent enforcement of a stiff fine outlined in this bill. She did point out one aspect of the bill which does concern the association. The idea of how someone distinguishes private property from federal or state lands when it comes to the forest ground's checkerboard ownership does present a problem. A copy of her testimony was marked as Exhibit T and is attached hereto.

Ron Waterman, representing the Montana Stockgower's Association, testified as a proponent to HB 17. He said there is a need in this state for stronger enforcable trespass laws. He said this is not a rural landowner issue -- it is an issue that affects all property owners equally. Without trespass laws, no property owner whether they are in the city or in the country, can keep others off

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/14/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

DATE 2/14/85

COMMITTEE ON JUDICIARY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Judy K Mintel	STATE FARM	HB366 507	✓	
Barbara J Lantzenheizer	Am. Council of Life Ins	366 507	✓	
Donald GARRITY	— " —	366 507	✓	
Bonnie Tippy	Alliance of Am. Insurers	366 507	✓	
Randall Gray	STATE FARM	366 507	✓	
Sherry DANIELS	Transamerica	366 507	✓	
Marie Deonier	- self -	366 507	✓	
Jim Higgins	Farmers Ins Group	366 507	✓	
Chuck Mitchemann	ST. Farm	366 507	✓	
Lori Hamm	- self -	366 507	✓	
DON HEFULRICH	ST Farm	366 507	✓	
Jim Brown	Aetna	366 507	✓	
Ed Zimmerman	Am Council of Life Ins	366 507	✓	
Kristin Hartley	Deer Lodge	366 507		✓
Laura Nicholson	Helena	366 507		✓
Elaine V Shay	Deer Lodge	366 507		✓
Ralph A. Kroos	Clancy	643	✓	
James L. McConnell	Mt. Dental Assoc	643	✓	
Lorna Frank	Mt. Farm Bureau	594	✓	
John Burnside	Prudential	594		
Joan Crum	self	366 507		✓
Katherine Orr	self	366 507		✓
Anne Brodsky	Women's Lobbyist Fund	366 507		✓
Diane Sands	Mt's Women's Resource Center	366 507		✓
Martie Gilkerson	self	366 507		✓
Lenore Gilkerson	MEA	366 507		✓

(Please leave prepared statement with Secretary)

DATE February 14, 1985

COMMITTEE ON HOUSE JUDICIARY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
[illegible]	Business and Montana Professional Women	507		✓
Dana Stafford	Women's Lobbyist Fund	507-366		✓
Kelly Chandler	Women's Lobbyist Fund	507-366		✓
Linda Moodskey	Self	366	✓	
Mark J. Murphy	Montana County Atty Assn	17		✓
Esther Rued	Montana Cattlemens Assn	17	✓	
Nancy McClafferty	Park County Legislative Assn	17	✓	
June MacIntyre	Human Rights Commission	366 & 507		✓
James F. Rehberg	Self	507 + 366	✓	
Richard Meckler	self	507 366		✓
Riley Johnson	Professional Insurance Agents	507-366	✓	
Eileen Robbins	Montana Lawyers Assoc	507-366		✓
Bradley Harris	Self	507 366	✓	
Lavina Labinus	WIFE	17	✓	
Joanne Sullivan	WLF			✓
Mike Dahlem	Mont. Fed. of Teachers	507 366		✓
Margaret Jones-Miller	self	507 366		✓
Melinda MacArthur Metz	self	507/366		✓
Laurie Abbott Jenson	Women's Lobbyist Fund	507/366		✓
Jim Jensen	self	507/366		X
Sharon Eisenberg	NTT NOW	507/366		X
Jim Gamble	Self	507/366	X	
B. PEARSON	MONT PIRG	507/366		*
Gail Kline	WLF	507/366	✓	X
Pam Campbell	self	507/366		✓
Patricia Butler	Montana National Organization for Women	507/366		X

(Please leave prepared statement with secretary.)

DATE February 14, 1985

COMMITTEE ON HOUSE JUDICIARY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Elaine Donnelly	Montana Eagle Forum	507	✓	
Betty B Johnson	" "	507	✓	
Dorothy Trayler	" "	507	✓	
Betty L. Babcock	Mont Eagle Forum	507	✓	
Pat Spurlin	"	507	✓	
Lenore Waeckerle	" "	507	✓	
Helen Lasek	" " "	507	✓	
Jaig Halsey	Mt. State Eagle Forum	507	✓	
Ann Larson	Helena Eagle Forum	507	✓	
Marge Nibb	Great Falls Mt	507	✓	
Dorothy Christiansen	Gt Falls Mt	507	✓	
Beverly Glueckert	Helena, myself	507	✓	
Mary Ann Jerca	Helena	507	✓	
Mary Loubek	Helena Pioneer Chpt. Eagle Forum	507	✓	
Emer Hampton	Mt Assn Life Underwriters	366 507	✓	
Lester H. Loble II	Am. Council of Life Ins	HB 366 507	✓	
Barbara Ann Kerry	Mt Eagle Forum, Helena	366 507 366	✓	
KATHY KARP	Mont League of Women Voters	507		✓
Twiss Butler	National Organization for Women	Support the law		✓
Constance J. Waterman	myself, NOW	507	✓	✓
LINDA BROCK	Bozeman, myself BPW	507, 366		✓
Melinda L. Lake	Bozeman, Myself, BPW	507, 366		✓
Pat Simmons	Bozeman myself	507, 366		✓
Jane Scharf	" Voice Bpw, AAUW	"		✓
Sally Chelan	Butte Mont Myself		✓	
Dagny Mitchell	Helena Mt Myself	507, 366		✓

DATE 2/14/85

COMMITTEE ON HOUSE JUDICIARY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Joan Fowler	Women's Law Section, BK, Bar Assn.	HB366 HB507		X
Martha Merrell	MSLA WRC	HB 366 HB507		X
Betsey Hurd	MSLA	HB366 HB507		X
John Vanderveen	Helena	507	✓	
Karen L. Zollman	NOW	507, 366		✓
Harriett Pilcap	AAUW	507 366		✓
Barbara Ellard	VIPOP	507 366	✓	
James S. Connelly	Farmers Agent	507 366	✓	
Mike Keeslar	Self	507	✓	
Calvin L. Burr Jr.	Self.	643	✓	
Lorraine Gillis	Mont. Farm Bureau	17 636	✓	
David A Wellman	MSGA	17 with amend	✓	
Dan Heinz	M. Wildlife Fed	17		X
Lorna Frank	Mont. Farm Bureau	HB17	✓	
Hal Price	Mont Wildlife Fed	HB643	✓	
Jo Brunner	M. Grain, MT Cattlefeeders	HB17	✓	
Mike Sweeney	Helena - WSTA	HB17	✓	
Norman Sober	Helena, MT.	HB17	✓	
Nancy J. Haste	Helena - Mt. Dem. Lady	507 366		✓

(Please leave prepared statement with Secretary)

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 15, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, February 15, 1985 at the hour of 7:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Rep. Keyser who had been previously excused.

ACTION ON HOUSE BILL NO. 360: Rep. Hammond moved that HB 360 DO PASS. The motion was seconded by Rep. Brown.

Rep. Hammond informed the committee that he had consulted with the mobile home court owners who had testified at the previous hearing. They told Rep. Hammond that they would have no objection to changing the time of notice from 30 days to 15 days. Therefore, Rep. Hammond moved the following amendment:

1. Title, line 5.
Strike: "30"
Insert: "15"

2. Page 2, line 17.
Strike: "30"
Insert: "15"

Said motion was seconded by Rep. Brown and carried unanimously.

Rep. Gould further moved that HB 360 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and further discussed.

The question was called, and DO PASS AS AMENDED motion carried with Reps. Hannah, Poff and Rapp-Svrcek dissenting.

ACTION ON HOUSE BILL NO. 643: Rep. O'Hara moved that HB 643 DO PASS. The motion was seconded by Rep. Brown.

Rep. Rapp-Svrcek felt an amendment should be adopted to allow counties the right to prohibit the discharge of firearms in concentrated urban areas for the purposes of public safety.

It was Rep. Eudaily's feeling that they would be opening a can of worms if that particular amendment were adopted.

Brenda Desmond, committee researcher, stated that she is unaware of a law that allows counties to regulate the discharge of firearms.

Rep. Addy moved on line 19 following "a" to insert "county". The motion was seconded by Rep. Rapp-Svrcek.

Rep. Hannah spoke against the motion to amend saying that it would deviate from what the sponsor of the bill intended. He feels it would be going against the whole direction of the bill.

Rep. Eudaily feels that by adopting the amendment, additional authority would be given to counties to regulate guns.

Rep. Mercer, too, felt by adopting the amendment, the committee would be doing exactly the opposite of what the bill is intended to do.

Rep. Rapp-Svrcek argued that the amendment would only allow the counties to have some say regarding the use of firearms in highly concentrated urban areas.

The question was called, and the motion to amend failed on a voice vote.

The question was further called on the previous DO PASS motion. The motion carried with Rep. Cobb dissenting.

ACTION ON HOUSE BILL NO. 594: Rep. Hammond moved that HB 594 DO PASS. The motion was seconded by Rep. O'Hara. Rep. Cobb, sponsor of HB 594, gave the committee a brief description of what the bill does.

Rep. Cobb moved the following amendments:

1. Page 1, line 20.
Following: "department"
Insert: "or the responsible political subdivision"

2. Page 1, line 24.
Following: "department"
Insert: "or the responsible political subdivision".

3. Page 2, line 3.
Following: "department"
Insert: "or the responsible political subdivision"

4. Page 2, line 8.
Following: "department"
Insert: "or the responsibile political subdivision"

The motion was seconded by Rep. Brown and carried unanimously.

Rep. Brown further moved that HB 594 DO PASS AS AMENDED. The motion was seconded by Rep. Montayne and carried unanimously.

ACTION ON HOUSE BILL NO. 276: Rep. Krueger moved to table HB 276. The motion was seconded by Rep. Eudaily.

Rep. O'Hara stated his objections to the tabling motion. He feels unless something is done in this area, the state will continue to lose money.

Rep. Kreuger argued that passage of the bill will only result in a double check of what the department is already doing. Although Rep. Kreuger agrees with the intent of the bill, he feels the bill will allow the Department of S.R.S. to be able to obtain all sorts of information about individuals.

The question was called on the tabling motion, and it failed 7-10. (See roll call vote.)

Rep. O'Hara moved that HB 276 DO PASS. The motion was seconded by Rep. Miles and discussed.

Again, Rep. Kreuger stated his position on the bill. He feels this legislation gives the Department of S.R.S. further authority to invade individual's right to privacy and would further allow the state to acquire the right to look into all tax records.

The question was called, and the DO PASS motion carried 9-8. (See roll call vote.)

ADJOURN: Chairman Hannah adjourned the executive session at 8:00 a.m., and the hearing scheduled for today convened.

Tom Hannah
REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

EXECUTIVE SESSION - 7:00 a.m.

Date 2-15-85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser			✓
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

MONTANA STATE SENATE

JUDICIARY COMMITTEE

- -

49th Legislature - 1985

- -

COMMITTEE MEMBERS: Senator Joe Mazurek, Chairman
Senator Kermit Daniels, Vice Chairman
Senator Chet Blaylock
Senator Bob Brown
Senator Bruce Crippen
Senator Jack Galt
Senator Dick Pinsoneault
Senator Jim Shaw
Senator Tom Towe
Senator Bill Yellowtail

STAFF ATTORNEY: Greg Petesch

COMMITTEE SECRETARY: Cindy Staley

- -

BOOK: 1 of 4

INCLUSIVE DATES: January 8, 1985 - January 31, 1985

CHAIRMAN-MAZUREK, JOE
SECRETARY-STALEY, CINDY
NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0587	2/19	3/20		CONCUR		3/20
GOULD, R. BUDD			TRANSFER OF PRISONER TO COUNTRY HE IS A CITIZEN OF			
HB0594	2/22	3/21		CONCUR		3/23
COBB, JOHN			FLOODPLAIN MANAGEMENT - NOTICE OF ENTRY AND RELEASE OF NAMES REQUIRED			
HB0600	2/15	3/06		CONCUR AS AMENDED		3/6
MERCER, JOHN A.			INCLUDE OUT-OF-STATE CONVICTIONS FOR DUI & BROADEN CHARGING ON DUI			
HB0609	2/12	3/21		CONCUR		3/21
RAMIREZ, JACK			DURABLE POWERS OF ATTORNEY			
HB0613	2/22	3/19		ADVERSE REPORT		3/23
HANNAH, TOM			RESTRICT COURT ORDERED CHANGES TO BALLOT AFTER CERTIFICATION			
HB0620	2/19	3/05		CONCUR AS AMENDED		3/5
BRADLEY, DOROTHY			REQUIRE TRAINING & CERTIFICATION OF LOWER COURT JUDGES			
HB0622	2/22	3/21		CONCUR		3/23
THOFT, BOB			DELETE PURPOSE ELEMENT FROM BAD CHECK STATUTE			
HB0627	2/21				PUBLIC HEALTH	
KEENAN, NANCY			DUTIES AND RESPONSIBILITIES OF GUARDIAN AD LITEM			
HB0639	2/14	3/07		CONCUR AS AMENDED		3/7
NATHE, DENNIS G.			REVISION OF POLYGRAPH LICENSURE LAW			
HB0643	2/21	3/26		CONCUR AS AMENDED		3/28
THOFT, BOB			PROHIBIT LOCAL ORDINANCE BANNING OR REGULATING FIREARM SALE OR POSSESSION			
HB0644	2/15	3/11		CONCUR		3/11
NATHE, DENNIS G.			SEX OFFENSE AGAINST PERSON UNDER 16 YEARS OF AGE; PRESENTENCE REPORT			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 21, 1985

The fifty-fourth meeting of the Senate Judiciary Committee was called to order at 10:07 a.m. on March 21, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 609: Representative Jack Ramirez, sponsor of HB 609, testified this bill does not require a whole lot of concern. The National Commission on Uniform Laws recommended this legislation regarding durable powers of attorneys. We have the law on the books already. It is a very important law. This will save the expense of people who have relatives who become incapacitated. With a durable power of attorney, they are able to deal without the tremendous expense of a conservatorship.

PROPONENTS: Doug Olson, of the State of Montana Seniors' Office, presented written testimony in support of the bill (Exhibit 1).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: Representative Ramirez stated he had some written material from the Commission of Uniform Laws if anyone wanted to see it.

Hearing on HB 609 was closed.

ACTION ON HB 609: Senator Pinsoneault moved HB 609 be recommended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HB 541: Representative Paula Darko, sponsor of HB 541, testified this bill was submitted at the request of several district court judges (see correspondence regarding bill request, Exhibit 2). What this bill says is any person who multiplies legal proceedings is responsible for the payment of costs. There were questions in the House committee that the court would invoke this reprimand. There is some federal case law cited in the material provided to the committee.

PROPONENTS: None.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: None.

Hearing on HB 541 was closed.

CONSIDERATION OF HB 594: Representative John Cobb, sponsor of HB 594, testified this is a simple bill. There is a gap in the law. There is no notice requirement here. This came out of the Landlord-Tenant Act. He gave this to the Department of Natural Resources and Conservation before he filed it, and they said they didn't have any problems with the bill.

PROPONENTS: Alan Eck, representing Montana Farm Bureau Federation, presented written testimony in support of the bill (Exhibit 3).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: None.

Hearing on HB 594 was closed.

CONSIDERATION OF HB 622: Representative Bob Thoft, sponsor of HB 622, testified this is called the bad check bill. Under present law, if a person purchases goods or services and gives that person a check and the check is no good, it is considered a bad check. However, if that person puts those goods on an account and gives the person a bad check as payment on the account, it is not considered a bad check.

PROPONENTS: Riley Johnson, representing the National Federation of Independent Business, testified they feel this bill is a good companion to the bad check in a civil action, but it only provided for the civil remedy for the goods and services. This would provide a second alternative for larger checks and payments on account. It would help the small businesses that have to carry these accounts. Don Ingels, on behalf of Lake Milling Inc. in Hamilton, presented written testimony in support of the bill (Exhibit 4).

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Blaylock asked if they come in and give a check that does not have sufficient funds to cover it, but they have taken the goods because they are on account, would this apply?

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 02/18

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt	X		
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw	X		
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

DATE 3/21

COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Don Hoyle	Mt. Chamber of Commerce	H622	X	
Ellen Eck - MT Farm Bu.	MT Farm Bureau	594	X	
Jim Jeanes	Mt. Die Cast Ass'n	H722	✓	
Riley Johnson	NFIB	H622	✓	
Doug Olson	Senior Office - Legal Servic	609	X	
Kurt Krueger	Attorney General's Office	509	X	

(Please leave prepared statement with Secretary)

MONTANA FARM BUREAU FEDERATION

502 South 19th Bozeman, Montana 59715
Phone (406) 587-3153

TESTIMONY BY: Alan Eck

BILL # HB-594 DATE 3-21-85

SUPPORT XXX OPPOSE

Mr. Chairman and members of the committee, for the record my name is Alan Eck. I'm representing the Montana Farm Bureau Federation. The Farm Bureau would like to go on record as supporting House Bill 594. We believe that it is a basic right of any property owner to know who when and why someone is on their property and to give them permission to be there. We urge a "dopass" recommendation on HB-594. Thank you.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 032185
BILL NO. HB 594

Alan Eck
SIGNED

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 23, 1985

The fifty-seventh meeting of the Senate Judiciary Committee was called to order at 12:09 p.m. on March 23, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senator Jim Shaw who was excused.

Chairman Mazurek announced that although Senator Shaw was absent, he had left voting instructions and his proxy with Senator Galt.

ACTION ON HB 419: Senator Daniels moved HB 419 be recommended BE CONCURRED IN. The motion carried unanimously.

ACTION ON HB 187: Senator Towe asked what kind of violation we were talking about. Senator Mazurek responded discharge and public water supply problems. Senator Towe moved HB 187 be amended (refer to standing committee report for text of amendments). His reason for that is when you are talking about a public water act, the people accused may go to New York and hire a $100,000 consultant to come and testify. Senator Mazurek questioned whether or not it should be made reciprocal. The motion to amend carried unanimously. Senator Towe moved HB 187 be recommended BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON HB 95: Proposed amendments from the Montana Trial Lawyers Association were distributed to the committee (Exhibit 1). Senator Towe stated there are some cases where you don't want to try them separate. Karl Englund, of the Montana Trial Lawyers Association, stated the testimony dealt with third party claims. The amendments submitted say the cases cannot be tried together. In the third party situation, it couldn't be tried together, but in the first party case, it is up to the judge. But even in the third party case, if everyone agrees, they can be tried together. Glen Drake, representing the American Insurance Association, stated his amendment asked that the bill be returned partially to its original form and would apply only to third party claims. He thinks that is what Mr. Englund is also doing. You have a problem with the terrible increase in attorneys' fees that are incurred in a bad faith action. It is just used as a means to increase pressure. Mr. Englund stated Mr. Drake's amendment says you cannot even file the other case until the one is settled. They would resist that in the

will have any insurance coverage to cover punitive damages in the state. The companies will exclude it. If the courts persist and go beyond, the companies will pull out of Montana. We are not looking at a big insurance company's standing behind that person; we are looking at the person. The Ford Motor Company is one thing, but they have a big, deep pocket. The majority of the people in the state don't have a big, deep pocket. The trend is we are suing everybody and throwing in punitive damages. He is in favor of them in the right circumstances. Intent to harm and actual malice is where it should be. When we are starting to presume, that should be a tough test. Senator Towe moved as a substitute motion that the amendments be amended by stating "Clear and convincing means evidence in which there is no serious or substantial doubt . . . ." Senator Mazurek stated whatever we say, a court will determine what we mean. It is less than beyond a reasonable doubt or we would have said that. He suggested we let the court decide. Mr. Petesch commented the courts have interpreted it as a middle standard. Senator Pinsoneault suggested dropping it. Senator Mazurek read language from Iowa. Senator Pinsoneault moved as a substitute motion that that language be adopted. The motion carried unanimously. Mr. Petesch stated there is a technical changed needed on the statement of purpose adopted yesterday and the codification instruction for that section. Senator Towe moved the staff attorney be instructed to make the appropriate technical changes mentioned. The motion carried with Senator Daniels voting in opposition. Senator Towe moved that we insert the same applicability date in this bill as in SB 200. Mr. Petesch stated it affects removing from the effective date claims arising before the effective date which is immediate. Senator Towe moved an immediate effective date and applying to claims arising only after the effective date. Senator Crippen stated he can see where you shouldn't affect any trial in effect, but how do you know what torts are affected? We are not affecting their ability to pursue the case, we are affecting what they can get. The motion carried unanimously. Senator Crippen moved HB 363 be recommended BE CONCURRED IN AS AMENDED. The motion carried with Senators Daniels and Yellowtail voting in opposition.

ACTION ON HB 594: Senator Yellowtail moved HB 594 be recommended BE CONCURRED IN. The motion carried unanimously.

There being no further business to come before the committee, the meeting was adjourned at 2:18 p.m.

Committee Chairman

STANDING COMMITTEE REPORT

March 23 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 594

third reading copy (blue color)

(Senator Galt)

FLOODPLAIN MANAGEMENT - NOTICE OF ENTRY AND RELEASE OF NAMES REQUIRED

Respectfully report as follows: That HOUSE BILL No. 594

BE CONCURRED IN

~~XXXXXX~~ ~~DO PASS~~

~~XXXXXXXXX~~ ~~DO NOT PASS~~

Senator Joe Mazurek Chairman.